

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JOHN TURNER,

Plaintiff,

vs.

LOS ANGELES SHERIFF'S OFFICE,  
*et al.*,

Defendants.

3:17-cv-00475-RCJ-WGC

**REPORT & RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

Plaintiff, who is incarcerated within the Nevada Department of Corrections (NDOC), at Ely State Prison (ESP), filed a pro se complaint on August 2, 2017. (ECF No. 1.) The undersigned issued an order directing Plaintiff to pay the complete filing fee or submit a completed application to proceed in forma pauperis (IFP) within thirty days. (ECF No. 3.) Plaintiff submitted his IFP application on September 21, 2017. (ECF No. 4.)

Upon reviewing the IFP application, the court discovered that Plaintiff has “on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted[.]” *See Turner v. Self-Help Center, et al.*, 2:13-cv-1954-MMD-GWF (failure to state a claim); *Turner v. Clark County Detention Center, et. al.*, 2:13-cv-2117-JAD-PAL (frivolous and failure to state a claim); and *Turner v. HDSP*, 2:13-cv-1752 -GMN-NJK (frivolous). As such, Plaintiff may not proceed IFP, and instead, must pay the full \$400 filing fee in advance unless he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

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1 While Plaintiff's handwriting is difficult to read, Plaintiff's complaint appears to take issue with  
2 information sent by the Los Angeles Sheriff's Office to the Las Vegas Metropolitan Police Department.  
3 (ECF No. 1-1.) The allegations fail to plausibly allege that Plaintiff is in imminent danger of serious  
4 physical injury. As such, Plaintiff must pre-pay the \$400 filing fee in full.

5 Therefore, it is recommended that the District Judge enter an order that:

6 (1) Plaintiff's IFP application (ECF No. 4) be **DENIED**;

7 (2) Plaintiff be given **thirty (30) days** to pay the full \$400 filing fee, or his action will be  
8 dismissed without prejudice;

9 (3) directing the Clerk to send Plaintiff two copies of any order adopting this Report and  
10 Recommendation, so that Plaintiff may attach a copy of the order to a check paying the full filing fee.

11 The Plaintiff should be aware of the following:

12 1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this  
13 Report and Recommendation within fourteen days of receipt. These objections should be titled  
14 "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points  
15 and authorities for consideration by the district judge.

16 2. That this Report and Recommendation is not an appealable order and that any notice of appeal  
17 pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of  
18 judgment by the district court.

19 DATED: January 29, 2018.

20 *William G. Cobb*

21 WILLIAM G. COBB  
22 UNITED STATES MAGISTRATE JUDGE  
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